

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

East Poland Post Office
East Poland, Maine

Docket No. A2012-36

ORDER AFFIRMING DETERMINATION

(Issued February 10, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly, the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

The Postal Service's Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service's request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 25, 2011, Carl E. Duchette (Petitioner) filed a petition with the Commission seeking review of the Postal Service's Final Determination to close the East Poland, Maine post office (East Poland post office).² Additionally, a petition opposing the closure of the East Poland post office signed by 59 customers was received on November 1, 2011.³ The Final Determination to close the East Poland post office is affirmed.⁴

II. PROCEDURAL HISTORY

On November 2, 2011, the Commission established Docket No. A2012-36 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵ On November 9, 2011, the Postal Service filed the Administrative Record with the Commission.⁶

² Petition for Review received from Carl E. Duchette regarding the East Poland, Maine Post Office 04230, October 25, 2011 (Duchette Petition).

³ Petition for Review received from Concerned Citizens of East Poland regarding the East Poland, Maine Post Office 04230, November 1, 2011 (Community Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 942, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 2, 2011; see Notice of Errata, November 8, 2011.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, November 9, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the East Poland, ME Post Office and Extend Service by Rural Route Service (Final Determination).

Petitioner Duchette filed a participant statement supporting his Petition.⁷ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁸

III. BACKGROUND

The East Poland post office provides retail postal services and service to 82 post office box customers. Final Determination at 2. No delivery customers are served through this office. *Id.* The East Poland post office, an EAS-55 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturday. *Id.* at 2. Lobby access hours are 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 p.m. on Saturday. *Id.*

The postmaster position became vacant on November 26, 2008 when the postmaster retired. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 5-6. Retail transactions average 19 transactions daily (20 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$23,592 in FY 2008; \$19,230 in FY 2009; and \$18,640 in FY 2010. *Id.* There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$29,590 annually. *Id.* at 6.

After the closure, retail services will be provided by the Poland post office located approximately 5 miles away.⁹ Delivery service will be provided by rural carrier service through the Poland post office. *Id.* The Poland post office is an EAS-18 level office, with retail hours of 8:00 a.m. to 12:30 p.m. and 1:30 to 4:00 p.m. Monday through Friday, and 8:15 a.m. to 11:15 a.m. on Saturday. *Id.* One hundred and ninety-two post

⁷ Participant Statement received from Carl E. Duchette, December 2, 2011 (Participant Statement).

⁸ United States Postal Service Comments Regarding Appeal, December 16, 2011 (Postal Service Comments).

⁹ *Id.* at 2. MapQuest estimates the driving distance between the East Poland and Poland post offices to be approximately 4.86 miles (10 minutes driving time).

office boxes are available. *Id.* Retail services are also available at the Minot post office located approximately 1 mile away.¹⁰ The Minot post office is an EAS-16 level office, with retail hours of 8:30 a.m. to 12:30 p.m. and 2:00 p.m. to 4:00 p.m. Monday through Friday and 8:30 a.m. to 11:30 a.m. on Saturday. *Id.* There are four hundred and seventy-five post office boxes available for rent. *Id.*

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the East Poland post office. Petitioner Duchette states that he regularly uses mail services after 4:00 p.m. when the Poland and Minot post offices are already closed. He explains that if he receives checks after 4:00 p.m., he is unable to process and get them to the Auburn post office, which is open until 5:00 p.m. Petition at 1; Participant Statement at 1-2.

The Community Petition states the determination to close the East Poland post office is in violation of the Postal Reorganization Act that calls for the Postal Service to provide a maximum degree of effective and regular postal service to rural areas, communities and small towns where the post office is not self-sustaining. Community Petition at 1. The Community Petition also raises concerns about the security of mail delivered by a rural carrier. *Id.*

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the East Poland post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the impact on the provision of postal services, (2) the impact on the East Poland community, and (3) the economic savings expected to result from discontinuing the East Poland post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the East Poland post office should be affirmed. *Id.* at 1-2.

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the East Poland and Minot post offices to be approximately 1.64 miles (3 minutes driving time).

The Postal Service explains that its decision to close the East Poland post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- limited expected population, residential, commercial or business growth in the area;
- minimal impact on the community; and
- the expected financial savings.

Id. at 4-5. The Postal Service contends that it will continue to provide regular and effective postal services to the East Poland community when the Final Determination is implemented. *Id.* at 5.

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the East Poland community, economic savings, and effect on postal employees. *Id.* at 5-12.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the

Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On April 26, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the East Poland post office. Final Determination at 2. A total of 182 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 71 questionnaires were returned. *Id.* On May 31, 2011, the Postal Service held a community meeting at Poland Regional High School Auditorium to address customer concerns. *Id.* Four customers attended. *Id.*

The Postal Service posted the proposal to close the East Poland post office with an invitation for comments at the East Poland, Minot, and Poland post offices from June 14, 2011 through August 15, 2011. *Id.* at 2. The Final Determination was posted at the same three post offices from October 5, 2011 through November 6, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C.

§ 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. East Poland, Maine is an incorporated community located in Androscoggin County, Maine. Administrative Record, Item No. 16. The community is administered politically by the Poland Board of Selectmen. *Id.* Police protection is provided by the Androscoggin Sheriff's Department. *Id.* Fire protection is provided by the Poland Volunteer Fire Department. *Id.* The community is primarily comprised of retirees, those who commute to work in nearby communities, and self-employed persons. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the East Poland community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the East Poland post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 2-5.

The Postal Service states that regular and effective postal services will continue to be provided to the East Poland community and carrier service is expected to be able to handle any future growth in the community. Postal Service Comments at 9-10. The Postal Service also states that nonpostal services provided by the East Poland post office can be provided by the Poland post office or other local government agencies. Postal Service Comments at 10.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the East Poland postmaster retired on November 26, 2008 and that an OIC has operated the East Poland post office since then. Final Determination at 2, 5. It asserts that after the Final Determination is implemented, the temporary OIC will be assigned back to his administrative office. No other Postal Service employee will be adversely affected. Postal Service Comments at 12.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the East Poland post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to East Poland customers. Postal Service Comments at 5. It asserts that customers of the closed East Poland post office may obtain retail services at the Poland post office located 5 miles away. Final Determination at 2. Delivery service will be provided by rural carrier through the Poland post office. *Id.* The East Poland post office box customers may obtain Post Office Box service at the Poland post office, which has 192 boxes available. *Id.* East Poland customers can also obtain retail services or post office boxes at the Minot post office which is 1 mile away. *Id.*

For customers choosing not to travel to the Poland or Minot post offices, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 5-6. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* Additionally, the Postal Service notes there are other options to obtain services which do not require traveling to a post office, including ordering stamps on the internet, over the phone or by mail. *Id.*

Petitioner Duchette argues that his insurance business will be impacted because he will be unable to process checks received after 4:00 p.m. that same day. Petition

at 1; Participant Statement at 1-2. The Postal Service responds that the Minot post office, which is one mile away, can accept Express Mail until it closes at 4:00 p.m. It notes that Petitioner Duchette may wish to look into alternative methods of mail processing for his business, including using the Minot post office which is just one mile away. It acknowledges that he may need to adjust his business operations to account for the fact the Minot post office closes at 4:00 p.m. and alert his customers to take precautions if they require expedited coverage. Postal Service Comments at 7.

In the Community Petition, customers expressed concerns about the security of the mail. Community Petition at 1. The Postal Service contends the security risk for mailboxes is minimal as demonstrated by no reports of mail theft or vandalism in the area. Postal Service Comments at 7. It asserts that customers may place a lock on their mailboxes as long as the mailbox has a slot large enough to accommodate the customer's normal daily mail volume. *Id.* at 7-8.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$29,590. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$29,774) and annual lease costs (\$6,000) minus the cost of replacement service (\$6,164). *Id.*

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The East Poland post office postmaster retired on November 26, 2008. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, will be assigned back to his administrative office. Postal Service Comments at 12. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; and Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10.

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. The Community Petition protests the closing of the East Poland post office based on Section 101(b). Community Petition at 1.

The Commission does recognize that economics may play a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the East Poland post office (revenues declining and averaging only 19 retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers and the limited expected population, residential, commercial or business growth in the area. Final Determination at 7; Postal Service Comments at 10-11.

The Postal Service did not violate the prohibition in section 101(b) on closing the East Poland post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the East Poland post office is affirmed.¹¹

It is ordered:

The Postal Service's determination to close the East Poland, Maine post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹¹ See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the East Poland post office has been operated by a non-career officer-in-charge since the former postmaster retired on November 26, 2008. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

A participant has identified the concern that his insurance business and its employees rely on the ability to send urgent mail communications business days between 4 and 5 pm as a necessary and unavoidable adjunct of the insurance business. The Administrative Record does not show that the Postal Service fully

evaluated the possibility of maintaining service hours similar to those offered by the East Poland post office at the nearest post office (in Minot) that would help address this concern.

The administrative office for this closure is the Poland post office, which is further away from East Poland than is Minot. The Administrative Record provides scant mention of the Postal Service's possible evaluation of Minot rather than East Poland as the administrative office, given that Minot is much closer and has more post office boxes.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of East Poland and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since November 2008, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the East Poland post office and should be remanded.

Nanci E. Langley